

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
Case No. 7:23-cv-897

IN RE:)	
)	
CAMP LEJEUNE WATER LITIGATION)	PLAINTIFFS' SUBMISSION FOR
)	TRACK 3 DISEASES
This Document Relates To:)	
ALL CASES)	

Plaintiffs' Leadership Counsel respectfully makes this submission regarding Track 3 Disease selection pursuant to Case Management Order 2 ("CMO #2"):

1. On September 26, 2023, in CMO #2, the Court designated the five Track 1 diseases: bladder cancer, kidney cancer, leukemia, Parkinson's disease, and non-Hodgkin's lymphoma. Doc. 23, p. 8.

2. Under CMO #2, the Court further instructed that within 60 days of entry of CMO #2, the parties would submit to the Court the agreed-upon group or competing groups of diseases for Track 2. Doc. 23, pp. 11-12.

3. On November 27, 2023, the parties filed competing Track 2 proposals. The Plaintiffs requested the following five illnesses for Track 2: "(1) liver cancer, (2) sclerosis / scleroderma, (3) multiple myeloma, (4) kidney disease (i.e., end-stage renal disease, chronic kidney disease, increased kidney weight, or increased urinary protein tubular toxicity), and (5) aplastic anemia." Doc. 58. The Defendant requested the following five illnesses for Track 2: "(1) prostate cancer, (2) breast cancer, (3) lung cancer, (4) pancreatic cancer, and (5) esophageal cancer." Doc. 56.

4. The Court has not yet ruled on the parties' competing proposals for the Track 2 illnesses.

5. Under CMO #2, “[w]ithin 30 days after proposing Track 2 conditions, Lead Counsel, the Government Liaison, counsel for Defendant, or their designees shall submit to the Court an agreed upon group or competing groups of five additional illnesses for the purposes of Track 3.” Doc. 23, p. 12.

6. The parties have met and conferred but have been unable to come to an agreement regarding Track 3 Diseases. Plaintiffs’ proposal is stated below.

7. Plaintiffs respectfully request that the Court approve the following:

- a. Plaintiff’s proposed selection for Track II diseases. (liver cancer, sclerosis / scleroderma, multiple myeloma, kidney disease (i.e., end-stage renal disease, chronic kidney disease, increased kidney weight, or increased urinary protein tubular toxicity), and aplastic anemia)
- b. Defendants’ proposed Track II diseases be used for the Track III diseases, but substitute “childhood leukemia” for “pancreatic cancer.”

This would make the selections by Plaintiff’s Leadership and the Defendant the same, except for the request for substitution of “childhood leukemia” for “pancreatic cancer.”¹

Plaintiffs do not agree with Defendants’ proposals described in Defendant’s separate submission for modifying procedures for Track 3 diseases or otherwise. Rather, Plaintiffs believe that the Court should continue to use its existing procedures to ensure there is no further delay. Additionally, Plaintiffs do not believe that medical monitoring would be an appropriate Track disease but should be part of the damage criteria for all Plaintiffs. In further support, Plaintiffs respectfully direct the Court to their response to Defendant’s similar contentions made in the parties’ notice of filing regarding Track 2 diseases dated November 27, 2023, Doc. 58, at pp. 4-7. In addition, certain of Defendants’ contentions such as for additional time are also found in

¹ Pancreatic Cancer may have additional scientific support in the 2023 ATSDR Cancer Incident Study, which has not yet been released. Pancreatic Cancer should not be selected as a Track disease until the study has been released.

Defendant's motion filed on December 26, 2023, Doc. 95, to which Plaintiffs will be responding in due course.

Respectfully submitted this 27th day of December, 2023.

/s/ J. Edward Bell, III

J. Edward Bell, III (admitted *pro hac vice*)
Bell Legal Group, LLC
219 Ridge St.
Georgetown, SC 29440
Telephone: (843) 546-2408
jeb@belllegalgroup.com

Lead Counsel for Plaintiffs

/s/ Elizabeth J. Cabraser

Elizabeth J. Cabraser (admitted *pro hac vice*)
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111
Telephone: (415) 956-1000
ecabraser@lchb.com

Co-Lead Counsel for Plaintiffs

/s/ Robin L. Greenwald

Robin L. Greenwald (admitted *pro hac vice*)
Weitz & Luxenberg, P.C.
700 Broadway
New York, NY 10003
Telephone: 212-558-5802
rgreenwald@weitzlux.com

Co-Lead Counsel for Plaintiffs

/s/ Zina Bash

Zina Bash (admitted *pro hac vice*)
Keller Postman LLC
111 Congress Avenue, Suite 500
Austin, TX 78701
Telephone: 956-345-9462
zina.bash@kellerpostman.com

*Co-Lead Counsel for Plaintiffs and
Government Liaison Counsel*

/s/ W. Michael Dowling

W. Michael Dowling (NC Bar No. 42790)
The Dowling Firm PLLC
Post Office Box 27843
Raleigh, North Carolina 27611
Telephone: (919) 529-3351
mike@dowlingfirm.com

Co-Lead Counsel for Plaintiffs

/s/ James A. Roberts, III

James A. Roberts, III (N.C. Bar No.:
10495)
Lewis & Roberts, PLLC
3700 Glenwood Avenue, Suite 410
P. O. Box 17529
Raleigh, NC 27619-7529
Telephone: (919) 981-0191
jar@lewis-roberts.com

Co-Lead Counsel for Plaintiffs

s/ Mona Lisa Wallace

Mona Lisa Wallace (N.C. Bar No.: 009021)

Wallace & Graham, P.A.

525 North Main Street

Salisbury, North Carolina 28144

Tel: 704-633-5244

mwallace@wallacegraham.com

Co-Lead Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2023, a copy of the foregoing was filed via the Court's ECF system and served on counsel of record through the ECF system and can be accessed through that system.

/s/ J. Edward Bell, III

J. Edward Bell, III (admitted *pro hac vice*)

Bell Legal Group, LLC

219 Ridge St.

Georgetown, SC 29440

Telephone: (843) 546-2408

jeb@belllegalgroup.com

Lead Counsel for Plaintiffs